LIFE LEASE HOUSING RESOURCE GUIDE

QUESTIONS AND ANSWERS FOR PEOPLE CONSIDERING LIFE LEASE HOUSING

Ontario

Please Note: The terms of each life lease agreement may vary from one project to another. This guide covers the practices common to most life lease projects and suggests specific questions you may want to ask the project sponsor/operator. Please be sure to read a life lease agreement closely before signing it.

This guide was reviewed by lawyers; however, it should not be read as legal advice. If you are considering a life lease purchase, you should seek the advice of qualified professionals.

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GLOSSARY OF LIFE LEASE TERMS

life lease agreement The contract that gives the life lease holder (i.e., the buyer) the right to occupy the life lease unit.

life lease holder The person who buys (and therefore owns) the right to occupy a life lease unit.

life lease interest The right to occupy a life lease unit; what a life lease holder owns rather than property. When you buy real estate, you own the title to the property. When you buy a life lease, you own an interest in that property. Some lease holders register their interest on the land title; most do not.

life lease unit The home; it may be a detached house, a row house, or a suite in an apartment-style building.

project The collection of all life lease units managed by a sponsor on a parcel of land (houses) or inside an apartment-style building or buildings (suites).

resident An individual living in a life lease unit (whether the individual is the lease holder or not).

right to occupy What the life lease holder owns. When a person buys a life lease interest, they do not buy property. Ownership of the unit remains with the sponsor. The life lease agreement gives the buyer the right to occupy (live in) the unit for a long period of time, usually for their lifetime.

sponsor The organization that develops and/or operates a life lease project and usually has title to (i.e. owns) the land on which the project is built. Usually, the sponsor is a non-profit or charitable housing provider, seniors' organization, church or faith group, service club, or ethnic association.

SUMMARY

This life lease resource guide provides information and promotes awareness of consumer protection issues. The guide is targeted for use by life lease buyers and life lease residents. Representatives of legal, real estate, insurance, and financial sectors, as well as life lease sponsors, may also find the guide useful.

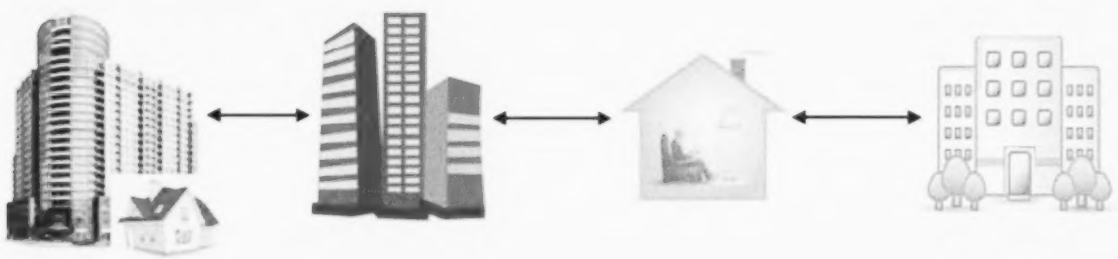
Life lease housing is an increasingly popular housing choice for primarily older adults who are able to live independently. In life lease housing, you do not own a property; you hold an "interest" in that property in exchange for a lump sum payment up-front, with monthly maintenance fees and property tax payments. The life lease interest gives you the right to occupy, or live in a unit rather than owning the unit itself.

The guide includes definitions of basic life lease concepts and information on life lease housing, including common eligibility criteria for residency and services typically provided in a life lease project. Using examples throughout, the guide also provides information on what it is like to live in a life lease project and highlights important information to be considered when buying or selling a life lease unit.

Life leases are an alternative housing option that lies between the options of independent living through home ownership or rental and residing in a retirement home or long-term care facility. Residing in life lease housing involves a lower level of personal care options compared to what is provided in a retirement home or long-term care facility.

For example:

Home/condominium ownership and rental | Life lease community | Retirement home | Long-term care facility



1. WHAT IS LIFE LEASE HOUSING?

INTRODUCTION

Life lease housing is an increasingly popular housing choice primarily for older adults who are able to live independently.

Life lease housing is usually developed and operated by non-profit or charitable organizations. These organizations are called "sponsors." Some life lease units are houses; others are suites inside an apartment-style building. Life leases are usually priced a bit less than similarly sized condominiums in the area. Like condominium owners, life lease holders continue to pay monthly fees for maintenance and property taxes in addition to the purchase price.

DID YOU KNOW?

The first life lease projects in Canada were built in the late 1970s and early 1980s. There are now more than 300 life lease projects in operation; about 135 of these are in Ontario.

Life lease buyers are often seniors who are looking to move into a smaller home. Some reasons why people choose life lease housing include:

- fewer home maintenance responsibilities
- access to social and recreational programs and sometimes care and meal services offered by the sponsor on site
- sense of community, primarily for seniors, but also for certain religions or nationalities
- affordability: may be more affordable than condominiums in the area, given the nature of tenure (interest versus ownership), the lack of availability of conventional mortgages and their exemption from land transfer taxes

Most sponsors provide a basic level of maintenance that includes mowing lawns and shovelling snow. Some sponsors go further, for example, changing furnace filters, fixing plumbing or electrical wiring, or monitoring both the interior and exterior of the home while lease holders are away.

Other sponsors offer a wider range of services: for example from laundry, housekeeping and meals to support services such as help with bathing, transportation, and reminders to take medication. These additional services may be included in the monthly fees or may be offered on an optional basis for an extra fee.

Some projects offer a specific religious or cultural environment. Buyers of these life lease interests are often attracted by the option of living somewhere that offers services in a language other than English or French, or offer programs that are specific to a particular culture.

NOTE: When a person buys a life lease, they sign an agreement with the sponsor. The agreement does not give the buyer property. Instead, it gives the buyer the right to occupy the unit until they sell the life lease or pass away. This right is subject to certain terms that are spelled out in the agreement. Be sure to read the life lease agreement carefully to understand the terms of the agreement and to see what services are offered.

ARE THERE DIFFERENT KINDS OF LIFE LEASE HOUSING?

Yes, life lease housing can take on a variety of forms. Each model is based on how the initial price is set and how the life lease interest is subsequently resold.

In Ontario, almost all projects are what are called "Market Value" leases. This means that if you sell the life lease interest for more than you originally paid for it, you (or your estate) make a profit; if you sell the interest for less, then you (or your estate) would incur a loss.

In all other models, the potential for profit or loss is typically taken on by the sponsor. Here, lease holders know when they buy the life lease how much money will be returned to them when they leave. Sponsors specify either an exact amount, or they specify the formula that will be used to calculate the amount.

This guide focuses on the Market Value model. For details on the different models of life lease housing, see **Appendix B**. For more details about the resale process, please see **Section 6**.

WHAT DOES "RIGHT TO OCCUPY" MEAN?

In life lease housing, you do not own a property; you hold an "interest" in that property. The life lease interest gives you the right to occupy (live in) a unit, rather than owning the unit itself. This means that:

- You do not own the housing unit. The life lease sponsor continues to own the property. Therefore you do not have the liability of owning a large asset.
- If you pass away, your inheritors may inherit the life lease interest, but not the right to occupy the unit. This means that your inheritors may benefit from the sale of your life lease, but they cannot automatically move into your home.

(Your inheritors may, however, apply to move into the life lease unit; this decision rests with the sponsor. See ***Section 2*** *for details about eligibility criteria).*

LIFE LEASE DEFINITION

In life lease housing, the buyer purchases the right to occupy a unit for a long period of time, often for their lifetime. The buyer pays a large lump sum upfront, followed by monthly maintenance fees and property taxes.

EXAMPLE:

At age 76, Judy passes away and her son Phil, aged 52, inherits her life lease interest, valued at $225,000. Phil is the sole inheritor of Judy's estate and applies to live in the life lease unit but is told that he does not satisfy the age eligibility (55 years). Phil then decides to sell the life lease interest. Phil plans to apply to purchase his own life lease interest in three years when he becomes old enough to satisfy the age eligibility requirement.

IS A LIFE LEASE CONSIDERED "RENTAL" OR "OWNERSHIP"?

Neither. All models of life lease housing share some of the characteristics of both rental and ownership – you do not own property, but you do own a right to occupy a housing unit.

The table below shows some of the similarities and differences between rental, condominium ownership, and Market Value life lease housing models (Please see **Appendix B** for a description of other life lease models).

TABLE 1.1 COMPARISON OF LIFE LEASE TO OTHER HOUSING FORMS

	Rental	Condominium Ownership	Market Value Life Lease
Own property	No	Yes	No
Have equity	No	Yes	Yes
Registered on title to land	No	Yes	Sometimes; rarely
Pay monthly fee	Yes	Yes	Yes
Participate in management	No	Yes	Sometimes; usually a Residents' Council makes recommend-ations to the Board

These differences are discussed in greater detail throughout the guide.

WHO PROVIDES LIFE LEASE HOUSING?

Most life lease housing projects in Ontario are owned and operated by established non-profit and charitable organizations, including for example:

- faith-based groups
- cultural associations
- service clubs
- seniors' organizations
- housing providers

Many of these organizations provide other forms of accommodation as well. For example, a sponsor may also offer long-term care, retirement homes and/or social housing. These organizations see life leases as a way to expand housing options in the communities they serve. Many life lease projects are located on the same land as these other forms of accommodation.

Most non-profit developers of life lease housing continue to own and manage the project after construction is completed.

HOW LONG IS A LIFE LEASE?

As the name suggests, a life lease typically lasts until the end of the lease holder's life or until the lease holder decides to move[1]. A small minority of projects set a fixed term – for example, 49 years. A sponsor may do this to:

- reinforce the point that the purchaser is buying a lease, not property
- ensure that a purchaser's life lease does not extend past the sponsor's own fixed-term lease on the land

In both cases, the life lease is not meant to expire at the end of the term, but to be renewed if the occupancy goes past the term. You should carefully review the life lease agreement to see how the duration of occupancy is defined. If a fixed term is specified, you should ask what the renewal provisions are.

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[1] Most Market Value life lease agreements allow you to transfer your life lease interest to your estate. This means that, technically, the lease lasts longer than "life." However, while your inheritors may profit on the sale of your lease, they may not move into the unit without first applying to the sponsor and meeting the sponsor's eligibility criteria.

The life lease agreement spells out the terms under which a life lease agreement may be ended earlier. These usually include:

- The lease holder does not pay monthly maintenance fees.
- The lease holder does not follow the project's rules and regulations (e.g. continually makes excessive noise late in the evening).
- The lease holder is unable to live independently without presenting a health or safety risk to self or neighbours.

If a lease holder who passes away has a spouse, then the life lease is usually extended for the term of the life of the spouse. However, the surviving spouse must meet the sponsor's eligibility criteria. For example, sponsors usually ask that lease holders be at least 55 years old so as to maintain a community of older adults. The spouse may also have to pay a transfer fee.

EXAMPLE:

Tim, a 59 year old life lease holder, dies and is survived by his spouse Jen, aged 53. Jen is able to live independently, but eligibility for residing in the life lease community is age 55. Jen applies to the life lease sponsor to be allowed to live in the unit. The life lease sponsor decides to be flexible and allow Jen to continue residing in the unit. Jen is, however, required to pay a transfer fee and sign a new life lease agreement with the sponsor.

If this is a concern for you, you should raise the question with the sponsor before buying a life lease (For more details about eligibility criteria and transfer fees, see **Sections 2 and 6**).

REGULATORY REGIME OVERSEEING LIFE LEASES

Unlike rental housing (which is governed by the *Residential Tenancies Act, 2006*) and condominiums (which are covered by the *Condominium Act, 1998*), there is no legislation in Ontario that specifically regulates life lease housing.

Many existing pieces of legislation are applicable to life lease housing in the same way they are applicable to other forms of housing. For example, these include:

- The *Fire Code*
- The *Building Code*
- The *Planning Act*
- The *Ontario Human Rights Code*

Two Ontario laws specifically mention life lease housing:

- The *Assessment Act* clarifies that life lease housing is considered residential for tax purposes (as opposed to a business, for example), as are houses and condominiums.
- The *Land Transfer Tax Act* says that life lease buyers do not have to pay land transfer tax, as long as:
    - The life lease buyer plans to live in the residence.
    - The life lease project was built and is operated by a non-profit organization.

The *Retirement Homes Act* may apply to some life lease sponsors who provide services such as preparing meals and assisting residents with feeding, bathing, and personal hygiene.

LAND TRANSFER TAX

The Land Transfer Tax is an amount paid to the province (or in some cases to the municipality) when you buy land or an interest in land, including any buildings.

The main legal document for life lease housing is the life lease agreement that the buyer and the project sponsor sign. This agreement is referred to by many names, such as:

- Right to Occupy Agreement
- Life Lease Occupancy Agreement
- Life Equity Agreement
- Life Lease Contract

This agreement is a binding contract that can be enforced in a court of law, if necessary. Be sure to read the wording of the agreement carefully when you are deciding whether to buy a life lease, just as you would in other residential contractual situations. It is a good idea to seek legal advice; however, you should first find out whether the lawyer you plan to consult has experience with life lease agreements (For more information about hiring a lawyer, refer to **Section 3** of this guide).

BOTTOM LINE

The life lease agreement is the binding legal document that spells out your rights and responsibilities as a life lease holder. Be sure to read it carefully before buying a life lease interest!

2. WHO LIVES IN LIFE LEASE HOUSING?

WHAT ARE THE ELIGIBILITY CRITERIA?

The following is a list of general eligibility criteria; each life lease sponsor may define its own criteria:

A. Age

Life lease housing is generally marketed to seniors and older adults, but different sponsors have different ways of defining this age group:

- Some sponsors market their housing to people 50 years or older.
- Some market their housing to people 65 years or older.
- Others set their age criteria somewhere in between these two points.

B. Ability to live independently

Residents in life lease housing must also be able to live independently. Once a resident begins to need a higher level of care than is available from the sponsor, family members, live-in caregivers, and/or visiting support workers, the resident is often no longer able to stay in the life lease unit. Sponsors may work with the resident to help them identify options for a new home in long-term care or another type of accommodation that provides support to seniors.

You should discuss these and any other eligibility criteria with the sponsor before you purchase a life lease interest.

ELIGIBILITY

There are two eligibility criteria common to most life lease housing projects:

- **age, meeting or exceeding a certain number of years**
- **ability to live independently, with available supports**

WHAT HAPPENS IF I AM NO LONGER ABLE TO LIVE INDEPENDENTLY?

When assessing a resident's ability to live independently, sponsors take into account the person's individual needs and circumstances. Sponsors look at whether residents:

- **are able to do basic tasks** on their own (e.g., cooking, eating, dressing, bathing)
- **have access to supports** that enable them to live independently (e.g. regular visits by family members or support workers who help with basic tasks; ability to hire a live-in caregiver)
- **pose a potential danger** to themselves or to others in the building (e.g. forgetting that the oven is on, leaving a tap running)

The sponsor will discuss concerns directly with the resident. Depending on the circumstances, the sponsor may also request a meeting with the resident's family and/or a formal assessment by a doctor, occupational therapist, or social worker.

Life lease agreements usually give the sponsor the ability to end the resident's lease with only 30 days notice, if the sponsor determines that the resident is no longer able to live independently. In practice, however, this has rarely been used. Under the Ontario Human Rights Code, life lease sponsors have a duty to accommodate any physical and mental disabilities up to the point of undue hardship[2]:

- Some sponsors may help the resident connect with external support workers through the local Community Care Access Centre (CCAC) or other community support service agencies.
- Some sponsors may provide services such as frozen meal delivery, phone reminders to take medications, and assistance with bathing (for these services you may incur additional fees).

EXAMPLE:

Jane is a 73-year-old woman who has lived in GreenHome, a life lease project, for the past 15 years. Two years ago, her health started to fail. GreenHome staff provided her with a phone call each morning to remind her to take her medication. GreenHome did not have a meal program, so Jane's family began to bring her meals. A home care worker came three times a week to assist Jane with bathing and personal care. One month ago, Jane accidentally left the stove on and a nearby roll of paper towels caught fire. The Community Care Access Centre (CCAC) worked with Jane and her family to find her a room in a nearby long-term care (LTC) home. The LTC home estimated that the wait would be two months. The family has hired a live-in caregiver and the sponsor has agreed to let her stay until a room becomes available at the LTC home.

COMMUNITY CARE ACCESS CENTRE (CCAC)

There are 14 CCACs operating in communities across Ontario, through the Ministry of Health and Long-Term Care. CCAC advice and services are covered by OHIP. Services provided include:

- **Helping you stay in your own home longer by providing care in your home and by coordinating care in your community, including specialized support services.**
- **Providing information about long-term care options if it becomes too difficult for you to live independently at home.**

[2] For a life lease sponsor, "undue hardship" could include accommodations that would place other residents at risk or that would result in an unmanageable financial burden for the sponsor.

When residents come to the point where they need more care than they can access in their current home, sponsors may work with them (and their families, where appropriate) to help them identify more suitable accommodations. This process can take several months.

WHAT HAPPENS IF MY SPOUSE IS YOUNGER THAN THE AGE LIMIT?

Your spouse's age should not affect your ability to buy the life lease if you are both planning to live there. In most life lease projects, **either** you or your spouse must meet the age criteria.

If you pass away and your spouse does not meet the age criteria, they may no longer be technically eligible to keep living in the life lease project. The sponsor has discretion over whether a surviving spouse can continue the lease or take over the lease. The decision is usually favourable, provided that they are able to live independently and meet other eligibility criteria.

However, if this issue is a concern for you, you should ask the sponsor about it before you buy the life lease.

COULD MY CHILD OR GRANDCHILD MOVE IN WITH ME?

Sponsors generally do not permit life lease holders to invite their children or grandchildren to live with them, for the following reasons:

- **Marketability.** Most lease holders report that one of the main attractions of life lease housing is the opportunity to live in a community of seniors and older adults. If a sponsor allowed younger family members to move in, it could change the uniqueness of the community and could lower the appeal of the project among existing or potential new buyers.
- **Lifestyle.** Any programs and services offered on site – such as social and recreational programs or care and meal services – are specific to seniors' needs.
- **Design.** Life lease housing is generally designed for seniors and older adults. Sponsors work to ensure that units are laid out in a way that can accommodate growing mobility issues.

However, sponsors may make exceptions to this rule. There have been instances where a sponsor permitted a resident's younger family member to stay with the resident temporarily. Others may permit family members to move in if they are acting as the life lease resident's primary caregiver.

COULD A FULL-TIME CAREGIVER MOVE IN WITH ME?

Most life lease projects allow caregivers to move in to a resident's home. The caregiver may be a family member over the age of 18 or a professional support worker whom you have hired. You need to seek approval for this from the sponsor.

WHAT OTHER FACTORS SHOULD I CONSIDER?

As an informed consumer, you may want to take into account the following considerations before you decide to buy a life lease:

- income and assets
- lifestyle

A. Income and assets

Buying a life lease requires a large upfront payment. When you are considering whether or not you can afford this payment, you should also consider whether or not you can afford the additional ongoing costs. These costs include the monthly fees charged by the sponsor. You may also need to pay property taxes and utility bills separately as well as any costs for care and meal services.

For information about accessing a bank loan to help cover the large up-front payment, please see **Section 3**.

For information about possible additional costs, please see **Section 5**.

B. Lifestyle

All life lease projects have their own community environment. Before you buy a life lease, you may want to consider whether the existing community at a particular life lease project is a good match with your interests and lifestyle:

- ***Activity level.*** In some life lease communities, residents are very active and there are lots of planned activities. In others, residents prefer to spend time on their own or with close friends, and there are few planned activities.
- ***Language and culture.*** Some life lease projects are developed to serve a particular ethnic or cultural community. Programs and activities may be in a language other than English or French (e.g., Chinese, German, Dutch). Meal programs may cater to culturally specific preferences.
- ***Religion.*** Some life lease projects were founded by and remain connected to a particular church, temple, or other faith-based institution. They may offer regular religious services and have a chaplain, minister, or other type of spiritual advisor on staff.

Please note that you may buy a life lease in one of these projects whether or not you are a member of the ethnic, cultural, linguistic, or religious community it serves.

Rules. All sponsors have rules that govern residents' behaviour. For example, many sponsors place restrictions on smoking. Almost all projects have rules that limit the number of pets or the type and size of the pets that a resident may have. See **Section 5** for further discussion of rules common to life lease projects.

If you are considering buying a life lease, you may want to ask the sponsor what rules are in place. This is especially important if you are moving from a detached home into an apartment-style building. Sharing a fence with a neighbour is different from sharing common rooms, hallways, and elevators.

The answers the sponsor provides to your questions will help you to decide whether or not this is a place where you would like to live.

MAY I SUBLET?

Some life lease holders may spend long periods of time away from their homes. For example, they may go on a long vacation or experience an extended stay in hospital. In these cases, life lease holders sometimes want to know if they can rent their unit out to another person.

Most life lease sponsors **do not allow residents to sublet their units**. This is another aspect to consider when deciding whether to purchase a life lease interest.

In instances where sponsors do allow subletting, they usually require that the person subletting the unit:

- meets the eligibility criteria established by the sponsor
- is able to live independently
- is aware of and agrees to follow the terms and conditions of the life lease agreement (In some cases, the sponsor will ask that the life lease holder and the sub-letter sign a new agreement, or sign an amending agreement, to make sure that everyone is bound by the same terms)

Some life lease agreements give sponsors the right to approve or reject the person to whom you are planning to sublet your home.

Please note that if your subtenant fails to pay the monthly fees, you are responsible for making these payments.

3. BUYING A LIFE LEASE

WHAT INFORMATION SHOULD I REQUEST FROM A LIFE LEASE SPONSOR PRIOR TO ENTERING INTO A CONTRACT?

The following list of questions is designed to help you cover all important bases prior to entering into a life lease contract or "buying a life lease interest". The list is not intended to be exhaustive; you may have other questions you want to ask to ensure that you understand the terms of the life lease. The answers to most of these questions should be included in your life lease agreement. You should review this contract in detail before committing to buy a life lease interest.

If you are buying a life lease interest in a newly constructed building, you may have additional questions. These questions are discussed in **Section 4**.

Questions	**Why is this important?**
A. General information about the life lease project	
Could you please give me the name and contact information of the property manager of the life lease project?	The property manager is responsible for overseeing the operation of the life lease project and is usually the main source of information about it.
B. Sale and resale process	
Does this project follow a Market Value model or another type of life lease model? (e.g. Price Index, Declining Balance; for details, please see **Appendix B**). Will I have to pay land transfer tax if I purchase a life lease interest in the project? What is the resale process? What percentage of the resale price is retained by the sponsor as a transfer fee (also called an administrative fee)? Does the sponsor retain any other fees, such as refurbishing charges, from the resale price?	It is important to clarify the terms and conditions for the purchase and possible future resale of the life lease interest. While many provisions are the same or similar to homeownership and condominium ownership, other provisions are different. The sponsor may ask that you sell your life lease to someone on the waiting list; the sponsor may reserve the right to match any offer you receive.

Questions	Why is this important?
C. Monthly expenses	
How much are the monthly maintenance fees? How are changes to monthly fees determined? Is there a limit to annual increases? Could you provide a breakdown of what the monthly fees cover and how these are calculated? What bills will I be responsible for paying in addition to my monthly fees?	In addition to the purchase price of your life lease, there are additional ongoing costs that must be considered when deciding whether to live in a life lease. See **Appendix C** for information on the financial stages of a life lease. Property taxes, heat, hydro, cable and internet may not be covered in the monthly fees.
D. Reserve fund	
How much money is in the reserve fund? Do you hire a professional outside of your organization to conduct a regular reserve fund study? When was the last study conducted? What did it say? Can I see it? Did the last reserve fund study identify needed repairs? Is the current reserve fund adequate to cover these repairs? What restrictions are there on the use of the reserve fund?	The reserve fund is an account set aside by the life lease sponsor for future capital repairs and replacements to the building. This can include exterior walls, roofing, windows, doors, heating and cooling systems. It is important that you find out whether the amount of the reserve fund is enough for existing and future capital repairs. Your lawyer may also help you to determine this. A reserve fund study is conducted in order to ensure that the amount of money currently in the reserve fund and the amount of contributions collected for the reserve fund are adequate to provide for the expected costs of major repairs and replacements to the building.
E. Financial information	
Could you give me a copy of the budget of the life lease project for the current year and, if available, the next year? Are residents able to obtain a copy of the budget each year? Could you share the last annual audited financial statements and the auditor's report on the statements? (If not, could you advise me of any borrowings of the life lease corporation or sponsor?)	You should confirm that the project's finances are well managed. Your lawyer may also help you to determine this. Financial statements provide information about the financial activities of the life lease project. The annual audit is the process through which the project's financial statements are reviewed and verified for accuracy by an accountant.

Questions	Why is this important?
What is your policy on the use of surplus funds? Are there opportunities for residents to provide input prior to decisions on major expenditures, such as capital repairs and replacements and re-modeling or expansions?	Surplus funds are the money left over after all operating expenses have been paid.
F. Liabilities	
Is the corporation (life lease project or sponsor) involved in any legal actions? Has there been, or do you anticipate, any substantial change in the corporation's assets or liabilities?	It is important to confirm that the life lease sponsor is financially secure and not the subject of possible legal action. Your lawyer may also help you to determine this. Legal actions or lawsuits, if successful, can result in financial losses to the project. Assets are the resources owned by the life lease corporation and may include cash, property and equipment. Liabilities refer to obligations that the corporation has to repay and may include bank loans and other debts.
G. Insurance	
Could you provide me with a document confirming the insurance that you have on the property? Could you tell me more about the insurance coverage for the life lease project? What is covered and what is not covered by the sponsor? Are residents required to carry insurance for the contents of their unit (e.g., furniture, personal possessions) or to cover any accidental damages that residents may cause? Are residents required to carry any other types of insurance? Will residents be notified of any changes in the insurance coverage for the building?	You should confirm that the life lease project is properly insured. The sponsor normally insures the common elements and base building components. In a townhouse-style development, common elements usually include parking lots, streetlights, etc. In an apartment-style development, the common elements may be hallways, common rooms, plumbing and wiring between units but not necessarily inside units. Whether or not resident insurance is a requirement, it is a good idea to carry insurance for your personal possessions and for liability.

Questions	Why is this important?
H. Repairs	
Which building features is the life lease sponsor responsible for maintaining, repairing, or replacing? Which building features are residents responsible for maintaining, repairing, or replacing?	It is important to confirm how responsibility for the repair and maintenance of the life lease unit is divided between you and the life lease sponsor. In some projects, residents are responsible for repairing or replacing appliances like a microwave or a dishwasher; in other projects, sponsors will take care of these items.
I. Rules and regulations	
How are rules and regulations developed and what kind of input do residents have into setting these? Is there a Residents' Committee or Advisory Council in place? Do residents sit on the Board? Can I have a copy of any by-laws or rules? What kind of input do residents have into setting these rules? What kind of input do residents have into the operations of the life lease project? Is there a process in place for resolving disputes between residents or between residents and the life lease project's managers?	The rules that apply to life lease residents vary from project to project. The input that residents can have on the rules and ongoing operations of the project also varies. If you have a pet or if you smoke, you may want to ask specific questions about whether there are rules in place about these things.
J. Services and programs	
What kinds of services do you provide? Which of these are mandatory and which are optional? What kinds of recreational activities do you provide?	It would be useful to find out the range of services that are available to you, and the costs involved. For example, most sponsors provide lawn-mowing and snow-shovelling services; these are included in the monthly maintenance fees. Some sponsors offer a meal program; this may be mandatory or optional.

SHOULD I TALK TO A LAWYER?

Some life lease sponsors require buyers to show that they have consulted a lawyer of their own choosing before they sign a life lease agreement. Others will recommend that purchasers get legal advice but will not require it. In these cases, you may make a personal decision based on your research into the sponsor's track record and your level of familiarity with the specific life lease project.

If you decide to seek independent legal advice, you should ask your lawyer:

- if they have experience with life lease agreements (If you do not have a lawyer, you may want to choose one who is familiar with life lease housing.)
- to review the life lease agreement
- to review any additional information provided by the life lease sponsor in response to your questions

TIP

When considering if you can afford a life lease, remember to factor in the amount of the monthly fees.

Should you need a lawyer and are not sure how to find one, the Law Society of Upper Canada can help. The Law Society Referral Service will provide you the name of a lawyer who practises in the relevant legal area. That lawyer will provide you with a free consultation of up to 30 minutes to help you determine your rights and options.

You can access the Law Society Referral Service by telephone at 1-800-268-8326 toll-free (416-947-3330 within the GTA), or make a request on-line at lrs.lsuc.on.ca/lsrs/.

HOW MUCH DOES A LIFE LEASE TYPICALLY COST?

There are several different models for determining the price of a life lease interest. Since the majority of life lease projects in Ontario use the Market Value model, the information in this section is based on this model. For information on other models, please see **Appendix B**.

The price of Market Value life lease interests is determined by the recent sales of comparable condominium units and other Market Value life lease interests in the area. Usually, a life lease will be priced a bit less than comparable condominium units.

When you are considering whether you can afford the price of a life lease, keep in mind that you will also have to pay monthly maintenance fees. You should ask how much these fees are and be sure that you can afford them. For more information on monthly fees and other ongoing costs, please see **Section 5**.

WILL I HAVE TO PAY LAND TRANSFER TAX?

When real estate is bought and sold, the buyer is normally required to pay a provincial "land transfer tax." However, because life lease buyers are not buying real estate, the Province of Ontario does not require them to pay land transfer tax. However, there are two conditions that must be met:

- The life lease project must have been developed by a **non-profit** organization or a registered charity.
- The buyer must have purchased the life lease in order to use the unit as his or her principal residence or as the **principal residence** of his or her parent or spouse[3]. A principal residence is generally the home in which a taxpayer lives most of the time. This is the address used on a driver's license, for voting, and for income taxes.

When you are considering buying a life lease interest, you should ask the sponsor, and verify with your lawyer, whether or not you will have to pay land transfer tax.

CAN I GET A MORTGAGE?

You can get a loan but it would be slightly different from a conventional mortgage because you do not own the property; you simply have the right to occupy the housing.

A small number of banks and credit unions are prepared to offer you a loan. These lenders are usually willing to loan you up to 65 per cent of the purchase price, to be paid back over a period of no longer than 20 years. The terms of the loan and the criteria for approval are usually similar to those of a conventional mortgage.

EXAMPLE:

Mayumi purchased a life lease interest for $200,000, and has $70,000 for the down payment. Her bank agreed to lend her the remaining $130,000. Mayumi pays off the balance in monthly instalments over a 20 year period. Based on an interest rate of four per cent, this would result in payments of approximately $785 monthly.

In some cases, lenders may require that the life lease interest be registered on the title of the life lease property (for more information about this, see page 20).

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[3] For more details, please see the Land Transfer Tax Act, O. Reg. 88/04, s. 2; O. Reg. 321/05, s. 2 at http://www.e-laws.gov.on.ca/html/regs/english/elaws_regs_040088_e.htm.

To find out about lenders in your community that are willing to make loans to life lease purchasers, ask your current banking institution, the life lease sponsor, or other life lease owners.

CAN I REGISTER MY INTEREST ON THE TITLE?

Title refers to the record kept in the Land Registry Office that shows who owns a parcel of the land on which the life lease project is built, as well as all those persons who have registered a legal interest in that land (e.g., a bank holding the mortgage).

When you buy a life lease, you do not own the property; however, you do hold a "right to occupy" the life lease unit. Some lawyers and lenders will recommend that you register a "Notice of Lease" or "Notice of Agreement" on the title of the life lease project property.

You cannot register an interest on the life lease sponsor's title without the sponsor's approval. Some life lease sponsors agree to this, but others do not.

CAN I GET TITLE INSURANCE?

If the sponsor allows your life lease interest to be registered on title, you can obtain title insurance. Title insurance protects your interest in the home against losses related to the property's title (e.g. title defects) or ownership (e.g., liens against the property). If you are using the services of a lawyer, the lawyer can obtain title insurance for you.

SHOULD I GET A HOME INSPECTION DONE?

Many home buyers will hire a home inspector to examine the property and identify any physical problems that may require repairs. Your realtor may be able to recommend a home inspector. You may also find home inspectors in the Yellow Pages of your phone book or by typing "home inspection" into the Business search bar of Canada411.ca.

If you are considering buying a life lease, hiring a home inspector may give you some additional peace of mind. When making this decision, you may want to consider:

- age of the building
- general appearance of the building
- extent of the information provided by the sponsor regarding the building's physical condition, including whether or not a recent building condition assessment has been done
- division of responsibility for repairs and replacements in your home
  (For example, you may not be responsible for fixing the plumbing or replacing the flooring. The sponsor may pay for these repairs or renovations).

4. BUYING A LIFE LEASE THAT HAS NOT YET BEEN BUILT

Section 3 provided general information about buying a life lease. This section provides some additional information about buying a life lease in a complex that has not yet been built.

If you are considering buying a life lease in a project that is still in development, you will want to ask all of the questions set out in **Section 3** as well as the questions listed below.

HOW MUCH ARE THE INITIAL DEPOSITS?

Life lease project sponsors usually request two deposits from purchasers while the project is in development:

- The first deposit is usually about $2,000 to $5,000 and is required to reserve a life lease unit prior to construction. If the sponsor does not begin construction by a given date, the sponsor will usually provide a full refund of this initial deposit (plus interest).
- The second deposit is usually about 25 per cent of the purchase price (including the first deposit). The sponsor requests this deposit only when the project is ready to begin construction and all contracts, agreements, and loan commitments are in place. This deposit may or may not be refundable. (See "Will I get my money back if I end my contract before construction is complete?" on page 23).

EXAMPLE:

Avinash has decided to buy a life lease interest in a building that is under development. The life lease is purchased for $200,000 and Avinash has paid $5,000 to reserve the spot. Two years later, the sponsor lets Avinash know that construction is beginning and that Avinash will have to put down 25 per cent of the purchase price (i.e. $50,000). Since Avinash has already given the sponsor $5,000 two years ago, he now gives the sponsor $45,000. Together, the two amounts add up to $50,000, or 25 per cent of the total price. When the building has been completed, Avinash will owe the sponsor the remaining balance of $150,000.

Once the life lease unit is ready for you to move in, the sponsor will request that you pay the remaining balance of the purchase price (See **Appendix C** for information on the financial stages of a life lease).

HOW ARE THE DEPOSITS USED?

The sponsor uses the deposits in two ways:

- to hire contractors and pay some of the costs of building the life lease project
- to get the loan needed to cover the remaining costs of building the life lease project (Usually, sponsors need a loan to cover the balance of the estimated cost. Most lenders require the sponsor to provide some funds for the project in order to secure construction financing).

Deposits reduce the amount of money the sponsor needs to borrow to build the project.

WHAT ARE THE RISKS?

Using deposits to fund construction exposes purchasers to the risk of losing their money if the project does not get completed or the developer goes bankrupt. In Ontario, the Tarion Warranty Program insures the deposits invested in freehold and condominium developments, but it does not cover life lease deposits. For more information on the Tarion Warranty Program visit their web site at: tarion.com/Pages/default.aspx

HOW DOES THE SPONSOR MANAGE THE RISKS?

Risks are managed to a certain degree by lender requirements. Since deposits make up only about 25 per cent of the cost of building the life lease project, the sponsor normally needs to get a construction loan for the balance.

Lenders assess the risks and will not provide financing until they are confident that the project has the resources to proceed. For example, lenders will not advance the loan until a significant proportion of the life lease interests have been pre-sold – usually 70 to 80 per cent.

WHAT CAN I DO TO PROTECT MY INVESTMENT?

Initial deposits. When you are considering buying a pre-construction life lease interest, you should ask the sponsor at which point they will begin to use purchasers' deposits.

PROTECTING YOUR DEPOSIT

Before you make a large deposit on a life lease, you should ask the sponsor to detail how your deposit will be protected. These protections may include:

- **achieving 70–80 per cent in pre-sales**
- **obtaining a construction loan**
- **executing a construction agreement**
- **requiring the builder to post a bond for performance, labour, and material payments**
- **requiring adequate builder's all-risk insurance coverage**
- **carrying a minimum in general liability insurance**
- **obtaining a building permit and meeting all zoning requirements.**

There is less risk involved when a sponsor waits to use the deposits until the project is "shovel-ready" – in other words, once they have a building permit, have met all zoning requirements, have hired a builder, and so forth. There is more risk involved if the sponsor uses deposits before that point to cover other marketing and development expenses.

Full balance. As part of the process of completing the sale, the sponsor may provide you with a warranty of title to the life lease lands. This document proves that the sponsor owns the property. If the sponsor cannot prove that they own the property, they may not have the right to sell it to you. If you do not see this warranty among the closing documents, you should ask the sponsor to provide you with a copy.

You may also want to ask the sponsor if there is a Non-Disturbance Agreement in place. A sponsor may take out a loan and offer the life lease project as assurance that they will pay back the loan. If the sponsor fails to pay back the loan, the lender may take over the life lease project. A Non-Disturbance Agreement states that in this event, the lease holder's financial investment in the property will not be affected. In other words, the lender may sell the property in order to get the money back from the loan, but the individual life lease holder will have to be reimbursed for the money they put in.

You may want to ask a lawyer to provide you with more information about these documents.

IS THERE A COOLING-OFF PERIOD?

Some life lease sponsors offer purchasers a "cooling-off period" after the buyer signs the purchase agreement. During this time-limited period, the buyer may change his or her mind and get back the full deposit.

Many sponsors, however, do not offer a cooling-off period. If you are undecided about the purchase, you should ask if the sponsor offers a cooling-off period.

If there is no cooling-off period, it is a good idea to avoid signing a life lease agreement on the spot. As with any major purchase, you should read the agreement closely, consult with your spouse or family members as appropriate, and consider getting advice from a lawyer who has an understanding of life lease housing before making a financial commitment.

For more information about hiring a lawyer, refer to **Section 3** of this guide.

WILL I GET MY MONEY BACK IF I END MY CONTRACT BEFORE CONSTRUCTION IS COMPLETE?

Some sponsors may have a voluntary cancellation policy that allows you to end your contract before you move in. Different sponsors may set different terms, but the common features of the cancellation policy are:

- Your deposit is refunded minus a penalty for withdrawing (e.g. two per cent of the deposit).
- The sponsor will not return your deposit until a certain percentage of life leases have been pre-sold (e.g. 75 per cent of life leases).
- The sponsor will sell the life lease to a new buyer, and any profit from this sale goes to the sponsor rather than to you.

Please note, however, that some sponsors do not have this kind of policy in place. In these cases, you must wait until the project is built, and then sell your life lease.

EXAMPLE:

Two years ago, Ben made an initial deposit of $5,000 and a second deposit of $45,000 (totalling $50,000) to purchase a life lease for a project that is to be completed next year. However Ben is no longer interested in residing in the life lease project and wants to cancel his purchase. The sponsor's cancellation policy imposes a two per cent cancellation fee. In Ben's case, this is $1,000. Ben is due a refund of $49,000; however, he may have to wait a year or more before he receives it. The sponsor's cancellation policy specifies that 75 per cent of life leases must be sold before any refunds are provided, and the sponsor has currently sold only 72 per cent. Further, the sponsor must first re-sell Ben's unit to another buyer. Ben does not get his $49,000 refund for almost three years.

WHAT HAPPENS IF I PASS AWAY OR AM UNABLE TO MOVE IN?

Most agreements allow you (or your estate) to recover your deposit if you become incapable of living independently or if you pass away before construction is completed. However, if someone else (e.g. your spouse) is named as a co-owner on the life lease agreement, the obligation to complete the sale falls to them.

HOW LONG DOES IT TAKE TO DEVELOP A LIFE LEASE PROJECT?

Sponsors usually take two to four years to design and market a life lease project. Construction often takes an additional 1.5 to three years. See **Appendix D:** Life Lease Development Timeline, for more details.

The agreement you sign when you pay your second deposit tells you the expected completion date for the project, so you will know approximately how long it will be before you can move in. The sponsor will normally confirm the actual date of occupancy about six months prior to move in.

WHAT HAPPENS IF CONSTRUCTION IS DELAYED?

The agreement you sign when you pay your second deposit:

- specifies the project's completion date
- provides a clause that limits the amount of time a sponsor can postpone the completion date (usually 60 to 90 days)

If construction extends past this date, the sponsor will ask you to sign an Amending Agreement allowing a further extension. You may choose to sign this new agreement or you may choose to withdraw from the project (without penalty) at this point.

WHAT QUESTIONS SHOULD I ASK THE SPONSOR ABOUT A PROJECT IN DEVELOPMENT?

When you review your new construction purchase agreement, you should look for the items listed below. If these items are not included in your agreement, you should ask the sponsor or your lawyer to provide you with this information.

Questions	**Why is this important?**
A. Unit Description	
Could you provide me with floor plans and a description of the unit (including its square footage and whether it comes with a parking spot, a storage locker, a security system, and any other features)?	You should confirm that size, design and other features of the unit fit your needs.
B. Construction Schedule	
How many other life lease interests in the building have been sold? What percentages of life lease interests remain to be sold before construction can begin? What date does the sponsor intend to begin construction? If the sponsor does not proceed to construction by this date, will I be able to access a full refund of my reservation deposit? What is the expected completion date for the project? How many days or months may a sponsor postpone the completion date? If the project is delayed past this point, will I receive a full or partial refund? Does the sponsor have a cancellation policy? If so, what is the penalty for withdrawing? What are the conditions for accessing the refund?	It is important to know whether the life lease project is likely to be completed on time and what happens if there are delays.

Questions	Why is this important?
C. Deposits	
How much are the initial deposits? When does the sponsor want the initial deposits? Does the sponsor offer a cooling-off period after I sign the agreement? If so, how long is the cooling-off period? What are the conditions for the sponsor to use my deposit?	While the project is under development, you are required to make an initial and a second deposit as down-payments on the purchase price for your life lease interest. You should know how much the deposits are, when they are due and for what they are being used. The sponsor should wait to use your deposit until after 70-80 per cent of life lease interests have been pre-sold and the zoning requirements, the building permit, the construction contract, the builders' all risk insurance coverage, and so forth, are in place.
D. Insurance	
What type of insurance does the sponsor carry? Does the sponsor carry a minimum in-general liability insurance? Does the builder have all-risk insurance?	You should confirm that the life lease project is properly insured in case there are claims against the sponsor. General liability insurance covers claims against the life lease sponsor due to damage or injury (caused by negligence or acts of omission) in managing the life lease project. All-risk insurance is a broad form of insurance coverage. It covers all items except those which are specifically listed. For example, if a policy does not expressly exclude flood coverage, then the house will be covered in the event of flood damage.

5. WHAT IS IT LIKE TO LIVE IN A LIFE LEASE PROJECT?

Each life lease housing project is different. Living in a life lease townhouse is different from living in a life lease apartment. Living in a project designed for Chinese seniors is different from living in a project designed for German-speaking Mennonite seniors. The marketing materials you receive from the sponsor usually try to give you a good sense of what life would be like in a specific life lease community.

This section of the guide presents some of the basic questions you may want to ask a sponsor before moving into life lease housing.

MAY I HAVE PETS?

Since there is no legislation specific to life lease housing in Ontario, the life lease agreement sets out the rules. Most life lease projects permit residents to keep pets; however, they often impose certain restrictions. For example, you may have to get permission from staff before moving a pet into your home. The life lease project may also have rules in place regarding:

- the size of pets (e.g. a dog may be no more than 25 pounds or 11 kilograms)
- the types of pets (e.g. no poisonous snakes or other dangerous animals, if these are not already prohibited under the municipality's by-law)
- the number of pets (e.g. no more than one)
- other types of restrictions (e.g. staff may ask you to remove a dog whose barking disturbs other residents)

Please note that service animals are exempt from these types of restrictions under the *Ontario Human Rights Code* and the *Accessibility for Ontarians with Disabilities Act, 2005*. This means that if you have for example, a visual impairment, the sponsor of the life lease project must accept your seeing-eye dog even if it is larger than what the rules normally allow.

If you have a pet or a service animal, you should read the life lease agreement carefully and be sure to ask the sponsor what rules and regulations are in place.

MAY I RENOVATE MY HOME?

If you plan to renovate, it is a good idea to start by checking the rules. Most sponsors will ask that you submit a request outlining what you plan to do. The sponsor will check that your renovations will not negatively impact the property's structure, electrical wiring, or plumbing. You must wait until you have received their written permission to start.

Some sponsors may have a list of pre-approved contractors that you may choose from.

WHAT OTHER RULES MIGHT THERE BE?

All life lease projects provide residents with a "Rules and Regulations" document that addresses the way residents are to treat the property. This may include:

- not painting the unit without prior written permission
- not drying clothes outside on the balcony (or patio)
- not storing firearms, explosives or flammable materials

Many life lease projects also place limitations on smoking; however, this is more common in apartment-style buildings than in townhouse-style developments.

HOW MUCH SAY DO RESIDENTS HAVE IN THE MANAGEMENT OF THE PROJECT?

Residents' Committee. Most life lease projects have some form of Residents' Committee or Advisory Council. This Committee:

- is responsible for organizing recreational activities
- may raise issues with management staff or with the Board that are important to residents
- may respond to questions from the life lease project's staff or Board regarding potential changes to the operations of the life lease project

Residents' Committees play an advisory role, while the final decision rests with the Board of Directors.

Board of Directors. Often, a life lease Board is responsible not only for the life lease project, but also for the sponsor's non-profit organization as a whole. One Board, for example, may be responsible for a life lease project, a long-term care home, a newcomer settlement program, and an after-school program for at-risk youth.

In some cases, residents may serve on the Board of Directors. The number of non-resident Directors is always higher than resident Directors.

Staff. The day-to-day operations of a life lease project are managed by the sponsor's staff rather than by the Board. Usually, if residents have a question, a suggestion, or a concern, they will raise it with the property manager or another staff person, rather than with the Board.

WHAT IS THE MONTHLY FEE AND WHAT DOES IT COVER?

Life lease residents pay a fee each month for the provision of certain services. The sponsor may refer to these as follows:

- maintenance fee
- common fee
- occupancy fee
- occupant charge
- monthly operating expense

Table 5.1 shows a breakdown of what monthly fees typically cover. Please note that this will vary from project to project – it is a good idea to ask a sponsor for a written statement of what the monthly fee covers and what it does not cover (See **Appendix C** for information on the financial stages of a life lease project).

WHAT KINDS OF SUPPORT SERVICES ARE PROVIDED?

Some life lease projects provide many recreational activities and support services, others provide only a few and some provide none. Some of these activities and services are included in the monthly fee, others you pay for if you choose to use them. The sponsor will usually provide you with a brochure that lists the kinds of programs and services you can expect if you move in.

Life lease projects usually offer two types of support services:

- **Support services included in your monthly fees.** If a service is provided as part of your monthly fee, you must pay the full amount whether or not you use these services. For example, if meals are provided, you do not have to eat this food. However, you must still pay your full monthly fee.
- **Support services provided for an additional per-use fee.** If you pay a separate fee each time you use a particular service or attend a particular program, you may opt in and out of this service or program as you see fit. For example, if there is an additional charge for assistance with bathing or dressing, you may choose not to use this service, or to use it only sparingly. These additional services may either be provided by a support worker on staff or by an external agency with which the sponsor has signed a contract.

EXAMPLE:

Dan's monthly fee of $560 includes daily breakfast. Dan usually cooks the rest of his meals. However, when he needs to, Dan also has the option of buying lunch and dinner from the life lease dining room at a cost of $10 per meal, which he pays on his monthly invoice.

Some programs are a blend of these two types. For example, a life lease project may include a certain number of meals in the monthly fee, but give you the option of buying additional meals if you wish.

TABLE 5.1 WHAT IS COMMONLY COVERED BY MONTHLY FEES?

Usually Covered	**Usually Not Covered**
• Property management (e.g. garbage disposal, lawn mowing, and snow shoveling) • Cleaning and maintenance of common areas and common elements (e.g. hallways, parking lots, offices, street lights; some projects may have a pool or worship space) • Insurance on the life lease project's common elements • Services such as recreational activities, chaplain services, and health and wellness programs • Reserve fund contributions (to repair or replace common elements) and regular reserve fund studies	• Property taxes • Cable television and internet • Utilities used in your suite or townhouse (heat, electricity, water, air conditioning) • Services such as housekeeping, personal support, and bus trips to local shopping centres • Personal contents insurance • Repairs, renovations, or replacements of specific elements of your home (e.g. fixing your dishwasher, freshening the paint, installing a grab bar in the bathroom, or replacing your refrigerator)

HOW ARE MONTHLY FEES CALCULATED?

Different life lease projects charge different amounts and have different formulas for calculating these amounts. However, the monthly fee is typically based on an annual operating budget that establishes the break-even cost of operating the project. The amount of your monthly fee is determined by three main factors:

- **The size of your home.** A life lease sponsor will often calculate the cost of each resident's monthly fee by charging a certain amount per square foot.
- **Expenses related to the common areas.** The costs associated with the common areas are normally distributed among all units.
- **The number of support services and operating expenses included.** The monthly fee will be higher or lower depending on:
  - whether certain services are included or optional e.g. daily meals and housekeeping services
  - whether certain expenses are included or billed separately e.g. utilities and property taxes

EXAMPLE:

Joe is interested in purchasing a life lease and is advised that in addition to the purchase price, there is a monthly fee calculated at 50 cents per square foot. Joe's monthly fee for an 800 square-foot unit would therefore be $400 per month.

ARE THERE LIMITS TO HOW MUCH MONTHLY FEES MAY BE RAISED?

There is no law in Ontario that limits how much a life lease project can charge for monthly fees. For rental housing, the *Residential Tenancies Act, 2006*, limits increases in rent, but for life lease housing there is no such protection. However, most life lease sponsors are non-profit organizations whose goal is to maintain a stable, happy, and healthy community. Raising fees dramatically would work against this goal.

Similar to rental housing or condominium housing, monthly fees in life lease projects are usually raised by a small amount each year to pass along the increased costs of operation. For example:

- If electricity or cable TV is included in the monthly fee, the monthly fee will go up when power and cable rates go up.
- If property taxes are included in the monthly fee, the monthly fee will go up when the taxes assessed by the municipality go up.

The sponsor usually gives residents advance notice (e.g. 30 days) of an increase in the monthly fee.

On rare occasions, the monthly fee is raised by a more substantial amount to cover significant increases in costs of operation or to cover new or unexpected costs. For example:

- If part of the building (or the complex of buildings) needs major repair work and the reserve fund does not have enough money to cover the cost, the monthly fee may go up significantly (For more details on the reserve fund, see page 33).
- If the Board decides to do a major capital project – for example, retrofitting the building (or buildings) for internet access – monthly fees may go up.

WHAT OTHER ONGOING COSTS SHOULD I EXPECT?

Some costs are not covered by monthly fees. Life lease residents are billed directly for these expenses. These bills may include:

- utilities for the individual suite or house (heat, electricity, and water)
- rental of a hot water heater
- telephone
- cable television
- internet

In addition to these bills, there may be other expenses:

- **Property taxes.** Since the sponsor owns the property rather than the life lease holder, the municipality assesses the life lease project as a whole and sends the sponsor the bill. The sponsor in turn assesses what portion of the total each house or apartment accounts for. The sponsor may include this cost in the monthly fee, or the sponsor may send each lease holder a separate property tax invoice.
- **Insurance.** While life lease sponsors have insurance on the building, many require that residents have insurance for their own contents and for liability. In some cases, residents may also require insurance on any improvements they make to their unit above the base building finishes (e.g. replacing laminate flooring with hardwood). The life lease agreement will spell out any insurance requirements. Sometimes a sponsor may provide access to a cost-effective group plan with a particular insurance company.

  (Note: Whether or not the sponsor requires you to carry insurance, it is a good idea to do so.)

- **Repairs and renovations.** In time, you may decide that you need to repair your dishwasher, replace your carpet, install a grab bar in the shower, or re-paint your living room. Some life lease sponsors will cover a portion or all of these costs. Other life lease sponsors will leave it up to you to hire and pay professionals to do this work.
- **Fee-based services and programs.** As previously discussed, sponsors often provide additional services that you may choose to access, for a fee. The more services you opt into, the higher your monthly costs will be. (For more details, see the sections on monthly fees and services.)

WILL I RECEIVE INFORMATION ABOUT THE FINANCES OF THE PROJECT?

Some sponsors provide regular updates about the finances of the project; others do not. Most are open to sharing this information with lease holders on request.

Sponsors who share financial information with residents do so in a variety of ways:

- presenting the information at a meeting to which all residents are invited
- providing documents to the Residents' Committee
- delivering documents to each life lease holder's mailbox

Sponsors vary in the amount and types of information they share. For example, some give a brief account of the current level of the reserve fund; others provide a budget that covers the full breakdown of the project's operating expenses. Many life lease agreements include a disclosure clause that outlines the information that the sponsor will provide on an ongoing basis.

WHAT IS THE RESERVE FUND FOR?

Similar to the reserve fund of a condominium corporation, the reserve fund of a life lease corporation is an account set aside by the life lease sponsor for future capital repairs and replacements to the building. Most common elements of a building can be expected to wear out and require replacement over time. For example, the carpet in a hallway may last 10 or 15 years, while a parking lot may require resurfacing every 5 to 10 years. Major repair work can be very expensive. Since major repairs are not required every year, they are not part of the operating budget.

To ensure that they have the money to pay for these capital projects, most organizations put money into a reserve fund each month. They work to keep the reserve fund at a level that can cover expected replacements, with some additional money to cover unexpected repairs.

HOW IS THE RESERVE FUND MANAGED?

To determine how much money needs to be put aside each year, many organizations hire a professional to carry out a reserve fund study. This study:

- assesses the building to estimate how long each element is likely to last before it will need to be replaced
- calculates the cost of these replacements
- adjusts these costs to account for expected inflation
- calculates the amount of money that the organization needs to add to the reserve fund each year
- calculates the amount of interest that may be earned on the fund

Reserve fund studies are usually prepared after the initial three to five years of occupancy and then updated every three to five years. Condominiums are required by law to carry out regular reserve fund studies; **life lease sponsors are not required to carry out reserve fund studies, but many do**.

HOW ARE DISPUTES HANDLED?

In life lease housing, disputes may arise between the sponsor and a resident regarding rules or services. Some sponsors have a dispute resolution policy in place, while others do not. Usually, the life lease project's staff will first try to work out residents' concerns informally.

If the issue is of concern to more than one person, the Residents' Committee may play a role in working to find solutions and mediating between management and residents.

The Board of Directors is not involved in the day-to-day operations of a life lease project. However, if you are not happy with the way your concerns are being addressed by the management staff, you may raise the issue with the Board. The Board's decision is final.

If you are still not satisfied with the process or the resolution, you may be able to seek outside assistance. Depending on the nature of your complaint, you may choose to contact a lawyer, a seniors advocacy group, or the Human Rights Tribunal of Ontario (For more information about hiring a lawyer, refer to **Section 3** of this guide).

6. SELLING OR LEAVING A LIFE LEASE HOME

There are different models of life lease housing. Each model is defined by the way in which a life lease is bought and sold. In Ontario, the most common is the Market Value model. If real estate values have gone up, lease holders make a profit on the sale of their home; if values have gone down, lease holders would incur a loss.

Since the overwhelming majority of life lease projects in Ontario are Market Value, this section will focus on the process for marketing and selling Market Value life leases (For information about the other models of life lease housing, please see **Appendix B**).

HOW IS A LIFE LEASE MARKETED?

Most life lease sponsors maintain a waiting list of potential buyers. When a life lease unit becomes available, they contact those individuals. These potential buyers may come to open houses and submit offers.

The most effective marketing of life lease housing tends to be by word of mouth or by the sponsor's promotional efforts within a specific community.

HOW IS A LIFE LEASE SOLD?

The exact steps for resale are always spelled out in the life lease agreement. In a few cases, the life lease holder is free to sell the life lease in the open market. In most cases, however, the sponsor exercises a degree of control over the sale by the lease holder.

The ways in which the sponsor exercises control over the sale include, but are not limited to:

1. Establishing a "**right of first refusal**" over the sale. This right is usually spelled out in the life lease agreement. It gives the sponsor a period of time to match any offer a life lease holder might receive.
2. Requiring that potential buyers meet the project's eligibility criteria and are approved by the sponsor, based on these criteria (For more on eligibility criteria, please see **Section 2**).

TWO-STEP SALE PROCESS

1. **Like a normal real estate transaction, the lease holder and the buyer agree on a price and a move-in date.**
2. **Unlike a normal real estate transaction, the lease holder does not sign paperwork with the buyer. Rather, the lease holder signs paperwork that gives the life lease interest back to the sponsor and the sponsor then signs a new right-to-occupy agreement with the buyer.**

3. Retaining **ownership of the property**. Life lease holders do not own their homes; they own a "life lease interest" that gives them a "right to occupy" the home. Only the sponsor can transfer the property from one resident to the next.
4. When a lease holder leaves, they sign the interest back to the sponsor. The sponsor then signs the interest over to the buyer (For more details on these terms and the question of ownership, please see **Section 1**).

EXAMPLE:

After residing in a life lease unit for the past eight years, Frank has decided to sell his life lease interest. Frank's friend Steven, aged 61, has offered to purchase the life lease unit for $175,000. The life lease sponsor has the right to purchase the life lease for the same amount, so Frank advises the sponsor of Steven's offer. After thirty days, the sponsor has not matched Steven's offer ($175,000) as required under the terms of the life lease agreement. Frank proceeds with the sale of the life lease interest to Steven for $175,000.

HOW IS THE PRICE DETERMINED?

The initial asking price is determined by assessing the value of the life lease in one of two ways:

- by the sponsor's management staff
- by an external real estate appraiser, hired either by the sponsor or by the life lease holder

In all cases, the person assessing the value of the home looks at recent sales in the life lease project and recent sales among comparable condominium units and houses in the area.

Often, sponsors will consult with the life lease holder when they are assessing the market value of a life lease. In some cases, the life lease holder has the final say about the price at which to list the life lease. However, most life lease agreements give the sponsor the final say on the asking price.

Interested buyers may make counter-offers and the final selling price may be higher or lower than the asking price.

CAN I CHOOSE TO WHOM I SELL?

Most sponsors establish a "right of first refusal" in the life lease agreement. This means that, when you settle on a price with a potential buyer, the sponsor may decide to refuse the agreement and instead buy the life lease from you at the price you agreed on.

This "right of first refusal" can prevent you from selling the life lease to a friend or family member for a price that is lower than the value set by the sponsor or the real estate appraiser. In this case, the sponsor may match the low offer, and then resell the life lease at its market value to another buyer.

In some life lease projects, you may transfer your right to occupy to anyone who meets the sponsor's eligibility criteria.

WHAT IS A "TRANSFER FEE" AND HOW IS IT USED?

All sponsors keep a percentage of the sale price when a life lease unit changes hands. This fee is often called a "transfer fee" but may also be called an "administrative fee" or a "retention fee."

Different sponsors charge different amounts. The fee is usually between 5 per cent and 15 per cent of the sale price, though some sponsors may charge a slightly lower or higher percentage. The life lease agreement will specify the amount of the transfer fee (See **Appendix C** for information on the financial stages of a life lease).

The sponsor will decide how they wish to use the transfer fee. Sponsors may use these fees to:

- cover the administrative cost of transferring a unit from one person to another
- meet the ongoing costs of marketing the life lease project and maintaining a waiting list
- renovate or refurbish the unit before the next resident moves in
- expand the types of services or amenities offered in the life lease project

DEFINITION

The transfer fee is the percentage of the sale price of your life lease that the sponsor keeps. It is usually 5-15 per cent and it covers the administration, marketing, and renovation costs that occur when a unit changes hands.

Most sponsors are non-profit organizations with a mandate that is broader than the provision of life lease housing. They are often committed to providing other programs that improve the quality of life of people from various parts of the community. Surplus funds from transfer fees that are not needed by the life lease project may be used to support other charitable or non-profit projects within the sponsor's overall mission.

DO I NEED A REAL ESTATE AGENT?

The majority of life lease sales are negotiated without involving real estate agents. The sponsor is often willing to act as a real estate agent by:

- marketing the unit
- helping you find potential buyers
- helping to negotiate the sale

Since the sponsor keeps a percentage of the total sale price, it is in the sponsor's best interest to maximize the value of each resale.

EXAMPLE:

Ann is selling her interest in a life lease unit, valued at $200,000. If Ann contracts a real estate agent there is a 5-per-cent fee ($10,000), and Ann would therefore receive $190,000 from the sale of her life lease interest based on a $200,000 selling price. This means that if Ann does not hire a real estate agent, she would need to sell her life lease unit for $190,000 to break even. If Ann sells the life lease unit on her own for more than $190,000, then she benefits from not contracting a real estate agent.

If you think that a real estate agent can get you a better price for your life lease, you may hire one. However, the real estate agent will take a percentage of the sale (commission) on top of the sponsor's percentage of the sale (transfer fee). The question you will need to weigh is whether the potential higher price will bring you enough profit to offset the real estate commission.

CAN I MOVE INTO THE SPONSOR'S LONG-TERM CARE HOME WHEN I AM READY?

Some sponsors operate a home for seniors with higher needs on the same site as their life lease project. Some life lease buyers believe that when they or their spouse need a higher level of care, they will automatically be able to move into such a home. However, the sponsor cannot guarantee this:

- **Long-term care home.** If the home is government-funded, you may not directly apply for a space there.

  If you want to move into a government-funded long-term care home, you must apply through your local Community Care Access Centre (CCAC). CCACs coordinate access to home care services and long-term care homes in the Province of Ontario. The CCAC will discuss your options with you and will place you on the waiting list of the long-term care homes you choose.
- **Retirement home.** If the home is not funded by the government, you may directly apply for a space.

CAN A SPONSOR TERMINATE MY LEASE?

Your life lease agreement establishes the terms of your right to occupy a life lease unit. If you do not comply with the agreement, the sponsor may have the right to terminate the life lease. Each sponsor has its own life lease agreement and the terms may vary. The list below provides the most common terms:

- You must pay your monthly fees.
- You, your spouse, and your guests must follow the rules set out by the sponsor.

  (These are usually detailed in a document attached to the life lease agreement (For further details, see **Section 5**).
- You must be able to live independently (For further details, see **Section 2**).
- You must use your unit only for residential purposes.
- You must not interfere with other residents' reasonable enjoyment of the life lease project.

There is no formal process to dispute the termination of your lease, unless one is outlined in your agreement. You may negotiate with the sponsor or lodge a complaint with the Board of Directors. Depending on the circumstances, you may also decide to take your case to a lawyer or file a complaint with the Human Rights Tribunal of Ontario (Please see **Section 5** for more details about dispute resolution. For more information about hiring a lawyer, refer to **Section 3**).

WHAT HAPPENS IF I PASS AWAY?

Different sponsors handle this differently. Your life lease agreement will spell out what happens to your life lease interest upon your death. Usually, if you have a spouse living with you, the life lease will pass to the spouse. The sponsor may charge a transfer fee at this point. The sponsor may also require that your spouse meet the age criteria in order to continue living in the life lease project (Please see **Section 2** for more details).

If you do not have a spouse living with you at the time of your death, your life lease interest may become part of your estate. Your inheritors:

- are responsible for paying your monthly fees until the life lease interest is sold
- are responsible for selling the life lease interest in collaboration with the life lease sponsor
- may not necessarily take over the lease and move into your home unless they meet the sponsor's eligibility criteria, i.e. age and ability to live independently. (The sponsor may charge a transfer fee when the new agreement is signed).

APPENDICES

APPENDIX A: FIVE QUICK TIPS ABOUT LIFE LEASES

FIVE QUICK TIPS ABOUT LIFE LEASES

1. Make sure the life lease sponsoring organization is reputable.
2. Read the terms of the life lease agreement closely and get professional advice.
3. Review the life lease organization's rules and regulations.
4. If you are buying a pre-construction life lease interest, make sure your deposit is protected.
5. Consider monthly fees and other expenses in your decision to buy a life lease.

For additional information about life lease housing please visit the Ontario Association of Non-Profit Homes and Services for Seniors (OANHSS) web site: oanhss.org

APPENDIX B: FIVE BASIC MODELS OF LIFE LEASE HOUSING

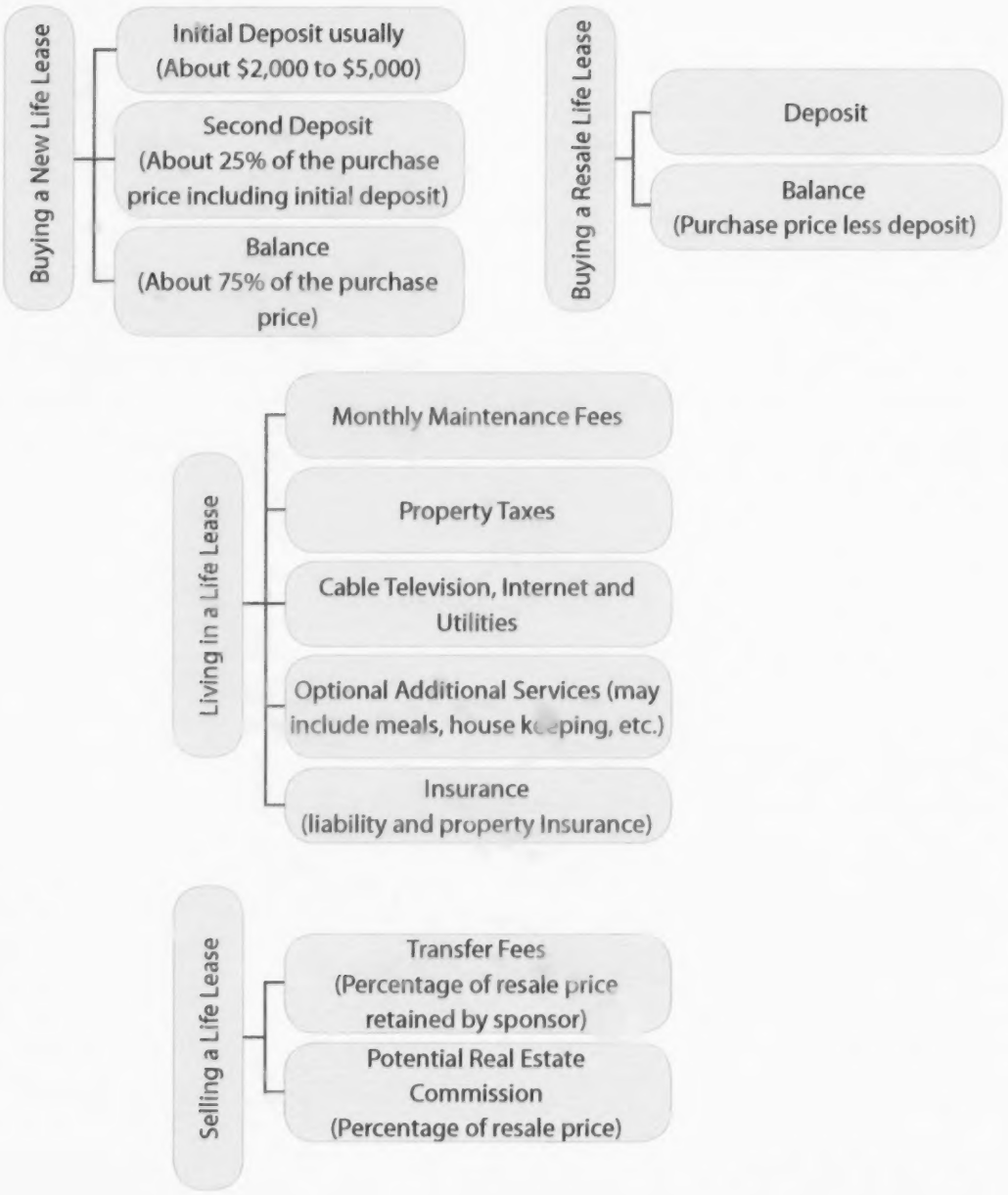
The different models of life lease housing described below cover the five most commonly recognized types. Please note that the particular approach offered by a life lease sponsor may include a mix of elements from two (or more) of the models described here. For example, some sponsors use a Market Value model, but split the increase in value of the lease with the seller 50/50 upon resale.

When you are buying a life lease, make sure you clarify with the sponsor exactly how their particular redemption model works.

MODEL	DESCRIPTION	BENEFITS AND CONSIDERATIONS FOR LEASE HOLDER
Market Value	You (or your estate) are responsible for selling the life lease at a rate the market will bear. The sponsor may assist by assessing unit value, contacting prospective buyers from the waiting list, brokering the sale, etc. The sponsor retains a percentage of the sale price as an administrative fee. If you also retain a real estate agent, his or her fee is additional.	*Benefit:* If real estate values go up, you can make a profit on the sale. *Benefit:* The value of the life lease is not tied to the age or length of occupancy of the resident. *Consideration:* If real estate values go down, you can lose money. *Consideration:* If you pass away, your inheritors will have to sell the unit and pay monthly fees until the unit is sold. This may be an important consideration if they live far away.
Price Index	The sponsor purchases the life lease back from you (or your estate) over the length of your occupancy. The sponsor increases the original amount you paid by an annual price index factor, usually the Consumer Price Index. The sponsor retains a percentage of the sale price as an administrative fee.	*Benefit:* Even if real estate values go down, you are guaranteed not to lose money. *Benefit:* If you pass away, your inheritors do not have to worry about selling your home or paying monthly fees. *Consideration:* Your estate will no longer hold the life lease interest once it is fully repaid by the sponsor. *Consideration:* If real estate values go up, you (and your estate) will not profit.

MODEL	DESCRIPTION	BENEFITS AND CONSIDERATIONS FOR LEASE HOLDER
Fixed Value	This is also called the "No Gain" model. The sponsor purchases the life lease back from you (or your estate) for the same amount you originally paid when you purchased the life lease. The sponsor retains a percentage of the amount as an administrative and refurbishing fee.	Same benefits and considerations as for the Price Index model. Additional Consideration: Since this model does not take inflation or market value into account, the money you invest loses its value over time.
Declining Balance	The amount you pay up-front is based on the value of the unit and your life expectancy. The amount you or your estate will receive declines by a specific amount each year until it reaches zero. As with the Zero Balance model, this model may be thought of as prepaid rent.	*Benefit:* The initial payment is typically lower than it is for Market Value, Price Index, or Fixed Value models. *Benefit:* Your right to occupy the unit lasts for your lifetime, even after the redemption value declines to zero. *Benefit:* If you pass away, your inheritors do not have to worry about selling your home or paying monthly fees. *Consideration:* Your estate will no longer hold the life lease interest once it is fully repaid by the sponsor. *Consideration:* If real estate values go up, you will not profit. *Consideration:* If a health issue forces you to leave earlier than you expected, this may or may not impact the amount of money that you (or your inheritors) receive back from your initial payment. (Ask the sponsor).
Zero Balance	You pay an amount up-front designed to prepay rent for the rest of your expected remaining life. The amount you pay is based on the value of the unit and your life expectancy.	*Benefit*: This is the least expensive form of life lease housing. *Benefit*: If you pass away, your inheritors do not have to worry about selling your home or paying monthly fees. *Consideration:* Your estate does not inherit the life lease interest, which returns to the sponsor at the end of your occupancy. *Consideration:* No residual value is paid to you or your estate if you pass away or if you decide to move elsewhere. *Consideration:* If a health issue forces you to leave earlier than you expected, you (or your inheritors) may or may not receive any money back from your initial payment. (Ask the sponsor).

APPENDIX C: FINANCIAL STAGES OF A LIFE LEASE


Buying a New Life Lease
Initial Deposit usually (About $2,000 to $5,000)
Second Deposit (About 25% of the purchase price including initial deposit)
Balance (About 75% of the purchase price)
Buying a Resale Life Lease
Deposit
Balance (Purchase price less deposit)
Living in a Life Lease
Monthly Maintenance Fees
Property Taxes
Cable Television, Internet and Utilities
Optional Additional Services (may include meals, house keeping, etc.)
Insurance (liability and property Insurance)
Selling a Life Lease
Transfer Fees (Percentage of resale price retained by sponsor)
Potential Real Estate Commission (Percentage of resale price)

APPENDIX D: LIFE LEASE DEVELOPMENT TIMELINE

While every project has its own challenges and its own timetable, **Table B.1** (below) shows the basic stages of development and the approximate time each one usually takes to complete.

TABLE B.1 LIFE LEASE DEVELOPMENT TIMELINE

PHASE	BUYER	SPONSOR	TIMELINE
Marketing & Development	• Reserves a unit • Makes a reservation deposit (usually $2,000 to $5,000)	• Develops project concept and markets the design (usually with development consultants) • Pre-sells life leases • Gets building permit • Gets construction loan approval from lender (conditional on a percentage of pre-sales) • Hires construction company	**2–4 years**
Milestone	**Reserves a unit**	**Pre-sells 75 per cent (e.g.) of life lease interests**	
Construction	• Signs life lease agreement • Makes deposit, usually 20–30 per cent of total cost	• Oversees construction of project • Confirms occupancy date once construction is completed	**1.5–3 years**
Milestone	**Moves into home**	**Assumes management responsibilities**	

First Phase – Marketing and Development

The length of time between concept and construction is usually about **two** to **four years**. It depends in part on how long it takes the sponsor to:

- ensure that it meets all zoning requirements
- pre-sell the number of the units it needs to begin construction
- get approval for a loan
- get a building permit
- hire contractors for the work

Second Phase – Construction

The length of time from breaking ground to moving in is usually about **18 months to three years**. It varies depending on a number of factors, including:

- the type of building or buildings
- the number of units and stories within each building
- whether or not there is an underground parking garage, and, if so, how many levels it has

You can expect construction of an apartment-style building to take about 20 to 30 months. Houses and townhouses can be built much more quickly, and lease holders can move into completed houses while other houses in the same project are still under construction.

Ministry of Municipal Affairs and Housing

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